

CITY OF KUNA
REGULAR PLANNING & ZONING COMMISSION

MEETING MINUTES
Tuesday, July 14, 2015

PZ COMMISSION MEMBER	PRESENT	CITY STAFF PRESENT:	PRESENT
Chairman Lee Young	X	Wendy Howell, Planning Director	X
Vice-Chairman Stephanie Wierschem	X	Troy Behunin, Senior Planner	X
Commissioner Dana Hennis	X	Trevor Kesner, Planner I	Absent
Commissioner Cathy Gealy	Absent		
Commissioner Joan Gay	X		

6:00 pm – COMMISSION MEETING & PUBLIC HEARING

Call to Order and Roll Call

Chairman Young called the meeting to order at **6:03 pm**.

1. CONSENT AGENDA

- a. Planning and Zoning Meeting Minutes for June 23, 2015

*Commissioner Hennis motioned to approve the consent agenda;
Commissioner Wierschem seconds, all aye and motioned carried 4-0.*

2. NEW BUSINESS:

- a. **15-01-ZC** – (Profile Ridge [South ½] Rezone) and **07-03-DA** – Development Agreement (Modification): A request by Iron Mountain Real Estate for a rezone of approximately 6.81 acres located at the southwest corner (SWC) of Meridian Road and Deer Flat Roads. This is a request to change the current zoning, R-6 (Medium Density Residential) in the City, to C-1 (Neighborhood Business District) within the previously approved Profile Ridge Subdivision.

Chairman Young asked if the applicant would like to present testimony.

Kent Brown: My name is Kent Brown, my address is 3161 E. Springwood in Meridian, Idaho. We are proposing a rezone of the portion of the site. The commercial zoning that was out there was very small, and as we started looking at the true commercial uses that the Ridley's has to the north of us, it needed to be wider and deeper along Meridian Road; the highway, and so we've expanded that similar to the depth that the Ridley's store is. We'll still have the residential zoning behind that. We met with the neighbors and basically the only thing of concern that was ever brought to our attention was that they wanted to make sure the road continued along to the south which is a condition that the city has had; they want the mid-mile road to extend along the southerly boundary of the site and that wasn't proposed to be changed. I will stand for any questions that you might have.

C/Young: Ok. Does anyone have any questions for the applicant at this time?

C/Wierschem: I don't

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C/Hennis: Not at this time, no.

C/Young: Ok, thank you. Now we will hear from staff.

Troy Behunin: Chairman Young, and fellow Commissioners, for the record, Troy Behunin: Planning and Zoning staff. The application before you tonight; 15-01-ZC which is a zone change and also 07-03-DA; development agreement modification and possible release of the development agreement. The applicant has provided all of the necessary materials to city staff and those have been included with your packets. Hopefully you have had a chance to review all of that. The applicant has also held all of the necessary neighborhood meetings as the applicant mentioned. The site has been posted and letters have been sent to land owners within 300 feet of the subject property and it has been advertised in the Kuna-Melba news, so all of those requirements have been fulfilled. So far, everything is proceeding the way that it should be according to city code and state code. Iron Mountain real estate is looking for this rezone to make it deeper and more sufficient for commercial development on the south. They're adding approximately 6.5 acres to the existing C-1 zone. Right now the land is already approved for R-6 which is residential-commercial; 6 units to the acre, but they want to increase that to attract these commercial businesses and be effective along that corridor.

The one good thing about adding commercial space to the existing is that it does provide a way to further the overlay district requirement, which is that there is not to be a road within 660 feet of the centerline of highway 69 though because there is going to be businesses there, they need to be a considerable distance away from the centerline of the highway 69. Staff is generally supportive of this and we don't see any problems with the request. The one thing that staff would encourage is that we not only begin discussions, but we begin releasing the development agreement from the Profile Ridge subdivision; and the reasons are complex, but yet simple to understand. Back in 2007, this property actually came in as a PUD (planned unit development), and it was granted what it needed to have at that time; however, there were far fewer land owners and there was a controller who was guiding the development, and there was a unified approach to this development. And then the economic down-turn hit and some of the properties were lost and the bank took some of the properties back. So what started as a unified approach has now splintered into several different property owners; none of whom were really part of the original development in the beginning except for one. Since the development agreement's creation back in 2007, it has actually been modified two different times; most recently, by Ridley's. It really is only about 20% developed or maybe more, but it's got a lot more developing left to come this way. Rather than bogging development down and putting some of these already 'code required' conditions, staff just recommends doing away with the development agreement and releasing the property just like we did for McDonalds for their portion of the site. Mainly, because with the exception of the pathway along Deer Flat Road, most of the major things that are required within the development agreement that are required in the staff reports that have been approved not once, not twice, but three and four times and they are already required in city code and those have been changed.

For those reasons, staff would seek that the development agreement actually be released from the property and that sometime between today and when this project moves forward with some of these other developments, that staff and land owners—all of us get together and discuss ways, including talking to ACHD about how we can get that pathway along Deer Flat Road taken care of. Ridley's has already contributed a considerable amount for its construction in the form of a bond and so we just need to preserve that. I spoke with my Director and the city attorney and we believe there is some sort of mechanism or method that we can secure with ACHD or with the other landowners to finish its construction. So, with that, I would stand for any questions you might have.

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C/Young: I guess I don't have a copy of the old development agreement, but I'm looking at some of the proposed staff requirements; and I might miss it but was extending irrigation when it became available to the site a part of the old development agreement? How are we going to approach some of that?

Troy Behunin: Well, probably an identical way in which we approached it with Ridley's. It's a considerable distance away from the site and even if this site is closer to existing pressurized irrigation; then at that time we will determine with the city engineer just how far away it is. My estimation is that we will do exactly what we did with Ridley's. They will basically double-plumb pipe for irrigation, but it will be connected to potable water until that time that pressurized irrigation close enough and then it would be switched over. They wouldn't run two pipes, but they would run a pipe that would be used for potable water at first, in the beginning and then when it gets closer, it would be converted to pressurized irrigation.

C/Young: And then Ridley's would then tap out...?

Troy Behunin: And then Ridley's would tie into that, yes.

C/Young: So I guess what I'm saying is I don't see those types of additions in here but the staff's recommendations so...

Troy Behunin: You can certainly add that. That is already an existing condition in previous staff reports and it's also in city code that it must be taken care of. Pressure irrigation must be provided to and through your property. But you could certainly outline that.

C/Young: When it becomes available. Ok. Does anyone else have any questions for Troy?

C/Hennis: That may be what you're talking about in ... it's addressed in number three too so... no, I don't have anything further.

C/Young: Ok thank you. At this point I can open up the public hearing at 6:17 pm. I will just ask; is everybody signed up that would like to say anything? Is there anybody that would like to add their name to the list? Ok, then I will just go ahead and start with Sid Anderson.

Sid Anderson: I thought I signed up to speak to the Zoning ordinance; the other case.

C/Young: Oh I looked at the wrong list. I apologize. Ok. Then I will ask Kent Brown, and I see that you've already done yours, so no others neutral or in opposition so I will go ahead and close the public testimony at 6:18 pm. Now that leads us to our discussion. I don't see anything in here that would give me any pause. I think it is pretty straight-forward.

C/Hennis: I think the only thing I would ...I just now thought of it; how is this area addressed in the comprehensive land use plan? Because we've got commercial down on the corner as Meridian wraps down around, and then the commercial up there so that would be a lot of commercial area.

C/Young: Maybe Troy can address that? I believe its part of the overlay district but...

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C/Hennis: How does this play into the fact that on the comprehensive plan, the map, future land use on commercial where Ridley's is currently and then commercial down as it turns the corner on Meridian? Has this been slated for future residential or is this just kind of a mixture of the neighborhood?

Troy Behunin: Good question. Much of Profile Ridge and the Merlin Point which is the Kuna curve; much of that area on the comprehensive future land use map as mixed use or commercial including both sides of Highway 69/Meridian Road. Not all of it, but again, mixed use can be a mixture of residential and commercial. It doesn't have to be but it allows for it and future land use map is really just a planning designation; it doesn't represent actual zoning. But tonight we're setting the actual zoning.

C/Hennis: No, I know that but as far what is planned for the city, I wanted to make sure that we weren't grouping too much in one area that was thought to be a little more mixed. But as long as it's in conformance, then that is fine.

Troy Behunin: And that's the intent of both of the subdivisions that you've brought up; Merlin Point, the Kuna curve and Profile Ridge, there's going to be a mix of both.

C/Hennis: Ok.

Troy Behunin: Which is exactly what we had hoped for when the map was completed in 2008-2009.

C/Hennis: Ok. Thank you.

C/Gay: Just so that I understand about the pressure irrigation; I understand what you've said so we could make that another condition in writing, but is number five referring to... is that saying what we need it to say? Do I understand that correctly?

C/Hennis: No, that's surface water so that's a little different.

C/Gay: Well then it goes on to say: "...and requesting to annex the irrigation ...oh, surface water ... over to the Kuna municipal irrigation, ok. Ok. I got it, thank you.

C/Young: Ok.

Troy Behunin: Number five deals with water rights.

Commissioner Hennis motions to approve 15-01-ZC (Zone Change) for Profile Ridge Subdivision based on the findings in the staff report and recommends the release of 07-03-DA (Development Agreement) based on all of the information provided in the Development Agreement, City Code and the staff report; Commissioner Wierschem Seconds, all aye and motion carried 4-0.

- b. **15-01-ZOA** - (Lot Split Ordinance Amendment): A request to amend Kuna City Code (KCC), Title 5, Chapter 16, Section 3 entitled, "Lot Split" to amend the requirements of sidewalk construction; modify the sewer, water, and storm drainage requirements; deletion of septic tanks and private well placement requirement; and provide an effective date.

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Wendy Howell: Wendy Howell, Planning Director for the city of Kuna. So I will just read the sections; the proposed additions to the land use table; basically, we have had several inquiries about renewable energy-type businesses and we didn't have anything that was clear in the ordinance. We had certain uses that could work, but we decided to clarify and add those uses; and along with adding those uses, we had to define them. So that's what you see in the definition portion of those added uses.

The changes to the public notification basically clarified the extra notification requirement when a height variance is requested; it was a little bit hard to understand. Additionally, staff is asking to change the three publication requirement in Kuna city code to two publications. We have every intent if it is a large case/item which affects the community as a whole, to do additional notices and post in various places, but this becomes problematic when it is a simple ordinance change –so that is the purpose behind this requested change.

And then we will get to the septic tank ordinance; on this one, I am winging it because I was not the author on this. The ordinance amendment is intended to better align with Central District Health Department's requirements and to be less restrictive when someone wants to annex into the city and do a lot split. Typically the people that request the use of septic tanks are on the border of our city limits, and it makes it cost prohibitive for them when sewer lines are quite a long distance away. Other proposed modifications that relate to the septic system requirements are being revised to be consistent with other areas of the proposed ordinance.

The engineer and the attorney have reviewed, commented and made additions; thus, you have the proposed verbiage before you.

C/Hennis: Primarily, what I see is it just kind of gives them more of a defined distance and time-frame and when you have to connect -is what I see as being different than the one before.

Wendy Howell: That's correct.

C/Wierschem: I just have one question and I don't see a page number, but it's under section two...

Wendy Howell: Are you looking at the red lines?

C/Wierschem: Yes. The top paragraph on the following page; I'm just wondering about the change from 400 to 500 in regards to all property owners, and what was the discussion behind that?

Wendy Howell: Basically your height variance, you may have a church steeple or a cell tower or something; that is usually what the height variance is on. But, more than just people that are within 400 feet that can see it, we are trying to get a bigger sweep for the affected people.

C/Wierschem: Ok, thank you. That's all I have.

C/Young: Any other questions for Wendy?

C/Hennis: No sir, none.

C/Young: Ok, thank you Wendy.

3. PUBLIC HEARING:

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We will go ahead and open the public testimony at 6:29 pm and I will recognize Sid Anderson. Please come forward and state your name and address for the record.

Sid Anderson: Thank you Mr. Chairman and Commissioners, for the record, Sid Anderson; my address is 2110 Rose Hill, Boise, Idaho. My family and I recently bought some property near Kuna city limits and we hope to build our home and annex into the city. I do have to say there are a few items in this ordinance that I have concern with. First, I'd like to say thank you to the planning staff and you for your service you render to the city and your service in this matter as well as other matters that you deal with. To Commissioner Hennis, one other change that is being made is the ordinance which previously restricted septic systems to be two (2) within 80 acres which is quite restrictive so some of those restrictions will be done away with and it is a little more reasonable; but a couple of items that I am concerned with are still here so I will just step through a couple of them.

On page 3 of 10, and I don't have the redlined version so my page numbers might be different than the one you're looking at...

C/Young: There should be a clean copy in the back there.

Sid Anderson: I can give you the sections; its section 4, item 2: some of this, I am ok with as far as the land owner agreeing to connect to services when it's within 300 feet of the property line, and also that the land owner must sign onto a memorandum of understanding with the city, which would be recorded at the county. I think some of the timelines are a little restrictive. In that section, it states that the land owner shall connect within 90 days once the city notifies them of the system being within 300 feet of their property. I find that a little restrictive or a little difficult; particularly, in many instances you have people that are perhaps very elderly and it may be cost prohibitive for them to connect. In our instance where we will put in a new home and we put in a septic system and a development goes in down the street, and the sewer line goes through; we would have to connect even though our septic system is here and is maybe only three years old. That seems a little much.

My recommendation would be 'upon failure of the septic system' or 'within ten years' or 'within a year's time' or something a little more reasonable with some equity or some use out of infrastructure that they've put in and to also allow for more time for someone who is in a difficult position to be able to afford to do that.

One more item in that same section, after that it is item 2, the memorandum portion; basically that the property owner would agree... I will just read it: "The property owner shall participate in any local improvement district or other funding mechanisms to fund city sewer infrastructure, extensions or costs and city sewer connection fees provided for". Obviously, this is in the memorandum of understanding; the owner has to sign this upon doing lot development. Obviously, these L.I.D.'s (local improvement districts) or infrastructures aren't contemplated, let alone established so there is no way to know how cost prohibitive that would be and I don't think... me personally, I wouldn't annex and I wouldn't go through a lot ordinance with that requirement there. This is just too much to sign on to something that no one has any idea what it might look like.

I think everyone is familiar with how well the last E.D.U. round went. I am not saying I am going to do it as soon as you put it together, no matter what it is.

I think with the requirements that you connect within a reasonable time frame, then that would leave it to you as far as what that might be, but my recommendation would be within ten years, or upon failure of the system. I think that covers my concern there. So that is section four (4). Also, in that section it does state

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that if the property owner fails to connect to the system within 90 days, well then the city can connect and then charge the property owner. I think that kind of goes along with what I was saying there with requiring the connection to be done within 90 days.

The other section is still in section 4, but rather item 2... I am sorry. Section 5, item 2; which is new single family septic system installs. Basically, the same concerns are in there but there are a couple of others in the first paragraph. Basically, this is delineating when someone is excepted from this requirement – when someone is allowed to put in a septic system rather than hooking up to the sewer system, the last line of that basically ends with “a public sewer line across Indian Creek when the benefit is limited to a single family property”, so basically what your saying is if you’re across Indian Creek, -and this is just an example of an extenuating circumstance, but my issue with that is ultimately if we were to annex, we would want to go through the lot split ordinance now which would allow us to split this five acres into three lots. Well, three lots would eventually turn into more than one single family residence lot; it would turn into three so we wouldn’t meet that exception. So it seems counterintuitive to the balance of the ordinance. I am just throwing that out there.

Item ‘B’ and ‘C’; those also may be applicable. Rather than ‘A’, maybe use ‘B’ or ‘C’-But in number two above, I don’t see that any of the below apply but it doesn’t say that so maybe we need to clarify. If it were to be any of the below, well then we might just say that you can use ‘B’ or ‘C’ instead. The end of ‘B’ also has an issue though; the way that it is worded. I guess they can install a system as an interim to pass the time until services are available, but that goes back to once the infrastructure is put in, then we want to be able to use it long enough to at least be able to absorb some of the costs.

Item ‘D’ is of particular concern for me as well, in that the property that we acquired was platted in 1910. It is a five acre parcel and this section here would prohibit me from participating in this ordinance because this basically says that it cannot be part of a subdivision; so clearly what we would want to do is annex it, do a lot ordinance spit into the three, but it is still a lot split so this would preclude us. I realize that there are many different situations besides my own, and so I understand that the city is trying to preclude certain types of developments and subdivide properties so I am not sure what the ultimate fix for that might be but I know there are many old subdivisions around as well where they are very large and right now the county allows forty acre subdivisions and ten acre subdivisions and five acre subdivisions. Well, any of those annexed into the city, you can’t divide a forty acre into 3 lots and have a septic system... you know, I am just not sure what we’re trying to accomplish.

So those are the issues that I see with the proposed ordinance. Currently, I guess for us, I think we’re better off remaining in the county with the restrictions as they are right now. So I will stand for any questions.

C/Young: Ok. Does anybody have any questions for Mr. Anderson?

C/Wierschem: I do. Have you spoken to the staff in regards to these concerns?

Sid Anderson: You know; I actually didn’t speak with them until today. I went through the recent amendment to the lot split, I had some input on that and I failed to watch the agenda and I didn’t see this was up, I just found out about it today so I got a copy and spoke with Wendy this afternoon. So this was not input that was previously provided, no.

C/Wierschem: Ok. Thank you.

C/Hennis: I don’t have anything.

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C/Young: Ok. Thank you. I guess I might ask if Wendy could come up. I've got a couple of questions as far as this if nobody else is signed up; I will close the public testimony at 6:38 pm.

I guess as far as looking at some of Mr. Anderson's concerns, the time frame for tying in; where did that number come from and I guess, tell me a little about the back ground on that.

Wendy Howell: That was the number that was provided by the city attorney. I suppose it is adjustable if you wanted to make a recommendation, I have no problem taking that forward.

C/Hennis: With regard to his concern about an active septic system that was put in prior to any foreseeable tie-in such as his example; wouldn't that fall under the section five of 'A' – 1: where it would be until just the septic system failure? That particular lot; it seems like when I look at this, his concerns as long as everything is followed under city code and there is no services within 300 feet, and not a plan of which he would be notified as part of that development anyways if his property is within 300 feet of that development, well then it would fall under that category, so I would think his concerns are already addressed with that regard, am I right? Am I reading that correctly?

Wendy Howell: I think it would fall back onto the other one, but Sid mentioned something about septic failure. Maybe it was just... I thought it was just installs is what he was referring to.

C/Hennis: Well, what he was concerned with was let's say Sid goes ahead and builds his house and in a year, there is a subdivision that goes in down the street and the city provides sewer at that point; would he then be mandated within that 90 days or within that period of time to connect to that because it's now available, but yet it wasn't at the time and now he's got an active septic system that would... I mean, that's what he's asking is within that time frame?

Wendy Howell: That is how I read it.

C/Hennis: So, if somebody dumps \$20 thousand dollars into a septic system and they get... yeah, that's not right.

C/Wierschem: Nope.

C/Hennis: Ok.

C/Young: Alright. Does anyone have any other questions for Wendy?

C/Hennis: No, none for Wendy. Thank you.

C/Young: Ok. Well, we can continue with our deliberation.

C/Hennis: I do have some issues on this septic.

C/Wierschem: Yeah, it seems like...

C/Hennis: It seems like they're pushing to just have everybody connected and that's not right if you have to shell out... I mean that is a lot of money. I mean, I can see talking about part of a subdivision and such, with new ones. I can see if

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somebody wanted to lot split three acres, and then throw a bunch of houses in and have six septic tanks in there; but for a forty acre parcel it would be a different story. Wendy?

Wendy Howell: I just wanted to bring to your attention, since you're discussing the three hundred foot notification and so forth; that in Section 4, Title 5, Chapter 16, Number 3, subsection B-2 which is under the lot split ordinance, it also states the same thing that Mr. Anderson had concerns with in the septic tank ordinance about the 300 feet and the 90 days after being notified, etc. So, if you choose to recommend something different there, please just indicate that it is consistent throughout.

C/Hennis: Yes, Ok. I think that is where he started and then kind of moved on from there, so yeah, I agree.

C/Young: I'm sorry; I'm just trying to re-read these paragraphs again. I guess maybe I'm not reading far enough into this paragraph, but under section 4, number 2: "the applicant shall extend public sewer and water to each parcel created when public sewer and water are available within 300 feet of the newly created parcel or parcels" for when they do their lot split "whereas, determined by the city engineer, if any of the parcels do not connect to the sewer at the time of the lot split, the owner shall agree to connect each parcel to the public sewer and water when these public utilities are available within 300 feet".

C/Hennis: So that's when they become available, they've got to hook up.

C/Young: But if they do the lot split prior to the sewer being within 300 feet, then is it...?

C/Hennis: No, because it says if any of the parcels do not connect at the time of the lots split, then the owner shall agree to connect each parcel to public sewer and water when these are available, and actually, that sentence is a little strange because if it is not available at the time, then when it becomes available that they (the city) would want it to be connected. And that is what I am seeing as I read further too.

C/Wierschem: Can I have a staff member clarify the intent of this language under section 4, title 2 once again please?

Wendy Howell: Section 2, the lot-split portion?

C/Wierschem: Yes.

Wendy Howell: It is simply to make it more consistent with section 4, chapter 16.

C/Hennis: So yeah, it is saying here that if you don't have sewer service within 300 feet of your property, then you can put a new septic system in after a failure. However, under item '1-D', even under that, you've got to enter into a memorandum of understanding that says 'at a minimum, if public sewer becomes available within 300 feet of the property, you have to connect within 90 days'. So they are going to have you put a septic system in and then if something is available within a period of time, then you have to pull it out, or rather abandon it and hook up. I say we just extend the time frame on that to something more reasonable. Because this says if the owner fails to connect within 90 days, they'll be charged and a lien will be put on their property.

C/Gay: If you did an extension of time, how would you judge a reasonable length of time?

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C/Hennis: We could just toss something out there. I mean, he suggested ten years or failure of the system so you would have to figure, what would the cost of that be, spread over however many number of years? That might be how you could kind of figure that.

C/Gay: Right.

C/Young: I don't know though. I think ten years is extensive as far as a number goes.

C/Hennis: Right, but I mean...

C/Gay: Do you think that is too long of a time?

C/Young: I do, but I'm not sure what...

C/Hennis: But the problem is, if you put \$25 thousand dollars into a new septic system, and then five years down the road, you have to pull that out or abandon it, I mean that is a lot of money to throw at something...

C/Young: I know. It doesn't pencil as far as things go.

C/Hennis: Yeah, there has got to be a fair deal to this. I understand wanting to promote detachment and hook-up to our sewer system, but if I were put in that position, I wouldn't be very happy about it either, but according to this, you can't do anything about it.

C/Gay: Did he make a recommendation on time? Ten years?

C/Hennis: He said ten years.

C/Wierschem: Ok, so what is the life expectancy of a septic system?

C/Hennis: Well, about 15-20 years isn't it? Or is it 25?

C/Young: I don't know.

C/Hennis: I believe its 15-20 years but there is a lot out there that are old and more than 30 years and they're fine, unless I'm getting my wells mixed up with my septic. I don't know...

C/Wierschem: I don't think it is right to do this. I see it as a hardship on a family.

C/Hennis: And we aren't talking about a few thousand dollars, we are talking a significant amount of money.

C/Young: And I don't know that I have the right answer today. I'm thinking maybe it is something that could be tabled for another discussion.

C/Hennis: Yeah, let us do some research on the time frame.

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C/Wierschem: Right.

C/Young: Let us get more information first, and bring it back.

C/Hennis: Yes, I think so.

C/Young: We could do a motion for that.

*Commissioner Hennis motions to table **15-01-ZOA** (Zoning Ordinance Amendment) until the next regularly scheduled Planning and Zoning Commission meeting (tentatively scheduled for July 28th, 2015) so that Commissioners may gather more information on the time frame requirement as discussed; Commissioner Gay Seconds, all aye and motion carried 4-0.*

4. DEPARTMENT REPORTS:

- a. None

5. CHAIRMAN / COMMISSIONER DISCUSSION:

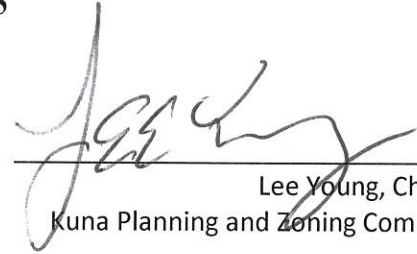
- a. None

6. ADJOURNMENT:

*Commissioner Hennis motions to adjourn at **6:54 pm**; Commissioner Wierschem Seconds, all aye and motion carried 4-0.*

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Lee Young, Chairman
Kuna Planning and Zoning Commission

ATTEST:



Wendy I. Howell, Planning and Zoning Director
Kuna Planning and Zoning Department